IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 2700 of 2007

Date of decision: 3.8.2007

United India Insurance Co. Ltd. **...Appellant**

Versus

Smt. Kamla Devi and others **...Respondents**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. R.C.Gupta, Advocate for the appellant.

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RAJESH BINDAL, J.

In this appeal, the Insurance Company has sought to challenge the award of the Motor Accident Claims Tribunal, Panchkula on the ground that the driving licence of the deceased having not been proved, the claimants were not entitled to any relief whatsoever.

It is an unfortunate case in which a young promising student expired in an accident. The claimants being his parents a sum of Rs. 2,29,500/- has been awarded by the Tribunal. As far as the issue of driving licence is concerned, the onus of the issue was on the appellant/Insurance Company. It had come in the cross examination of the witnesses produced by the Insurance Company that the persons had seen driving licence of the deceased but he could not intimate as to from where the same was issued. In such circumstances, the Tribunal was bound to take a view considering the totality of circumstances and the evidence on record. In the facts and circumstances of the case, the Tribunal had taken a view that appellant having failed to lead any evidence to rebut the statements of witnesses produced by them in the cross examination, the findings on the issues were returned against the Insurance Company. No material on record has been pointed out, which could lead to conclusion that the view expressed by the

Tribunal was not a possible view in the facts and circumstances of the case.

In the circumstances, I do not find any merit to disturb the findings recorded by the Tribunal and while concurring with the same dismiss the present appeal in limine.

August 03, 2007 **(Rajesh Bindal**
Pka **Judge**